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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ RC.REV. 198/2016

SANTOSH MARWAH & ORS Petitioner
Through Mr.Sunil Verma and Mr.Mohinder
Singh Saxena, Advs.

versus

KRISHAN LAL CHADHA Respondent
Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **21.07.2016**

1. The respondent is served. On 12.7.2016 counsel for the respondent had appeared. However, on the last date of hearing i.e. on 19.7.2016 and today none has appeared for the respondent.

2. By the present petition the petitioner seeks to impugn the order dated 24.2.2016 passed by the Rent Controller holding that there are triable issues between the parties and granting leave to defend to the respondent.

3. A perusal of the Eviction Petition filed by the petitioner shows that the petitioner has pointed out that the original owner of the suit properties was Shri Dharambir Marwah who became owner of the suit premises vide judgment of the High Court dated 14th September, 1988. After the death of Shri Dharambir Marawah in 2010 the petitioners as legal heirs inherited the suit property and became therefore the owners/landlords of the suit property. The petitioners have also given details of the accommodation requirements,

the number of family members living in the accommodation in their possession and the area under their physical occupation. Apart from petitioners, the details of the various family members, namely, the spouse and children etc. have been stated.

4. A perusal of the impugned order dated 24.2.2016 shows that it simply notes the contentions of the respondents, namely, that there is no relationship of the petitioners with the respondents inasmuch as petitioners are not landlords. It also notes the contention of the respondent about the alleged fact concealed by the petitioner that petitioners are in occupation of the second floor of the premises.

5. In my opinion, the impugned order has been passed without taking note of the submissions of the petitioners and without in any manner coming to any finding regarding the contentions of the petitioner. It is based merely on the averments of the respondents. The impugned order ignores that the respondents admit to having paid rent to late Shri Dharambir Marwah. However, the fact that as per the Eviction Petition Shri Dharambir Marwah expired in 2010 and that the petitioners stated that they are the legal heirs of late Shri Dharambir Marwah is not being taken note of by the impugned order. The order merely notes the contentions of the respondent but does not adjudicate the issues raised.

6. The order suffers from material irregularity. Accordingly I quash the order dated 24.2.2016. The matter is remanded back to the trial Court to hear arguments afresh on the application of the respondents for leave to defend. Fresh orders be passed also taking into account the contentions and averments of the petitioner as made in the Eviction Petition and other

pleadings and the documents placed on record by the parties. The petition stands disposed of.

7. Learned Rent Controller is requested to expeditiously dispose of the application for leave to defend preferably within two months from today.

JAYANT NATH, J

JULY 21, 2016
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